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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,075	02/09/2005	Nikolaus Knoflacher	AT 020052	4185

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BRIARCLIFF MANOR, NY 10510

EXAMINER

SEVERSON, RYAN J

ART UNIT	PAPER NUMBER
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3731

MAIL DATE	DELIVERY MODE
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11/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/524,075	Applicant(s) KNOFLACHER ET AL.	
	Examiner Ryan J. Severson	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/22/2008 (in view of the petition decision of 11/04/2009) has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-11, 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bosland (3,802,309) in view of Schwartz (4,893,037) and Magnus et al. (2,423,245).** Bosland discloses an apparatus capable of depilating with a housing (10), a supply (12), and a blocking means (86) that interacts with the supply to secure the supply against rotation when desired (see column 6, lines 26-35).

4. However, Bosland does not disclose a motor-driven take-up reel to pull up the previously applied tape to remove the hair. Attention is drawn to both Schwartz and Magnus et al. Schwartz teaches a take-up reel powered by a motor (2) and a drive connection (3 and 4) between the motor and the take-up reel for efficient retrieval of the

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chord or tape. Magnus et al. teach a depilating device may have both a supply reel (2) and a take-up reel (4) to provide more efficient depilation of hair and the elimination of removing depilating tape by hand. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a motor-powered take-up reel for efficient retrieval of the chord or tape, as taught by Schwartz, with the device of Bosland, to provide more efficient depilation of hair and the elimination of removing depilating tape by hand, as taught by Magnus et al.

5. To further clarify, Magnus et al. is used in the explanation of claim 1 to simply show it is old and well known in the art to have a depilation device with both supply and take-up reels. Bosland and Schwartz disclose the proper structures (i.e. the motor, both reels, and the brake), as claimed.

6. Regarding claims 2 and 3, the drive connection of Schwartz is interruptible as the means for interrupting the drive connection is a manually operated control button (see column 2, lines 21-24).

7. Regarding claim 4, the determination means of Bosland is the amount of time the button (60) is held. The longer the button is held, the longer the length of tape will be dispensed from the device (see column 6, lines 12-35).

8. Regarding claims 5, 6 and 14, Bosland further includes a hand-operated control button (60) and the blocking means is a blocking lever (86, see figure 8). The control button, when in a first position (pressed), allows tape to be dispensed. When in a second position (released), the blocking lever moves and tape is prevented from being pulled from the supply. In this manner, the blocking means interacts with the supply

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reel. When in the second position, the take-up reel as previously described is capable of being powered to take-up the previously applied adhesive.

9. Regarding claims 8 and 9, the drive connection of Schwartz is interruptible in the manner that the chord or tape may be freely pulled from the reel. This unraveling of chord from the take-up reel is not powered by the motor, and therefore the take-up reel is capable of rotating free of the motor. When the chord or tape is desired to be taken up, the motor is powered and the direction of rotation of the reel is reversed. This action is a single-direction coupling in that the torque to wind-up the chord is only transmitted in one direction.

10. Regarding claims 10, Bosland discloses an application means (the opening in the housing that the tape passes through).

11. Regarding claim 7, Bosland discloses an opening (see column 3, lines 3-6). However, Bosland does not disclose an application roller in the area of the housing. Attention is drawn to Magnus et al., who teach an application roller may be used on a depilation device (see column 5, lines 4-7) to press the tape effectively against the skin before depilation. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include an application roller with the Bosland device, as taught by Magnus et al., to press the tape effectively against the skin before depilation.

12. Regarding claim 11, an acute angle would be formed between the supply and the wind-up reel because the wind-up reel, as taught above in claim 1, would be mounted on the device of Bosland.

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13. Regarding claim 13, the combination of the wind-up reel powered by a motor and the drive connection allow hair to be removed from the skin.

14. **Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bosland (3,802,309) in view of Schwartz (4,893,037) and Magnus et al.**

(2,423,245) as applied to claims 1 and 14 above, and further in view of Polley

(2,951,140). The combination of Bosland, Schwartz, and Magnus et al. does not

disclose a heating device to heat the tape. Attention is drawn to Polley, who teaches a

heating device (80, 81) may be used to heat tape to allow for stronger adhesion

between the tape and the surface it is applied to. Therefore, it would have been

obvious to one of ordinary skill in the art at the time the invention was made to include a

heating device, as taught by Polley, with the combined device of Bosland, Schwartz,

and Magnus et al. to allow for stronger adhesion between the tape and the surface it is

applied to.

Response to Arguments

15. Applicant's arguments filed 5/22/2008 have been fully considered but they are

not persuasive. Applicant argues the motor of the combination is not "configured to be

inactive during application of the tape and activated to pull away the tape. However,

Examiner notes that this is merely a functional limitation, and takes the position that the

combined device is capable of performing this function. Applicant has not provided any

evidence to show that the function now claimed could not be performed, and therefore

the rejection is maintained.

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Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan J. Severson whose telephone number is (571) 272-3142. The examiner can normally be reached on Monday - Friday 8:30-5:00.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ryan J. Severson/
Examiner, Art Unit 3731
11/19/09

/Anhtuan T. Nguyen/
Supervisory Patent Examiner, Art Unit 3731
11/20/09